

REMARKS

I. Status of the Claims

Claims 24- 45 are pending in this application. Claims 24, 28, 30 and 44- 45 have been amended. Claim 46 has been added. These amendments raise no issue of new matter and Applicants respectfully request their entry. The specification has also been amended to correct spelling mistakes and certain errors Applicants made in the usage of the term "convection." In these instances, involving the thermal conductive elements and the product items, it would have been clear to one skilled in the art, as it was to the Examiner, that Applicants intended to mean conduction. Thus, these amendments also raise new issues of new matter and Applicants respectfully request their entry.

II. Claim Rejections under § 112

Claims 24-45 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention for the reasons disclosed on page 2 of the Office Action.

Claim 24 has been rejected for the recitation of the term "plan," which, the Examiner states, should be "planar". Office Action at page 2. Additionally, claim 24 has been rejected for claiming thermal processing by convection from the elements to the product, where, the Examiner contends, the heat is transmitted rather by conduction.

Id. Applicants respectfully assert that the rejections to claim 24 have been rendered moot by the foregoing amendment to claim 24 in which the term "plan" has been

amended to recite "planar" and the term "convection" has been amended to recite conduction.

Claims 31-33 which recite a freezing process have been rejected for depending on claims claiming "thermal [conduction] from the elements to the product." Office Action at page 2. The Examiner argues that the claim language "precludes the lowering of product temperature since heat is added to it." *Id.* Applicants respectfully submit that this rejection has been rendered moot by the foregoing amendment to claim 24 in which the claim language has been amended to recite "thermal conduction *between* the elements and the product items." This language covers heat transfer from the elements to the product and from the product to the elements (freezing).

Claim 45 has been rejected for reciting "a method . . . according to any one of claims 24-43" and, the Examiner states, none of the cited claims recites a method. Office Action at page 2. Applicants respectfully submit that this rejection has been rendered moot by the foregoing amendment to claim 45 in which the dependency language has been removed.

No independent ground of rejection has been rendered for Claims 25-30 and 32-44, other than their dependency to claim 24. Thus, for the reasons explained above for allowing claim 24, these claims should be allowed at least because of their dependency from claim 24.

For at least these reasons, Applicants request that this rejection be withdrawn.

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III. Claim Rejections Under 35 U.S.C. § 102

Claim 44 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Smith et al. (U.S. Patent No. 4,965,435) ("Smith"). Office Action at page 2. The Examiner states that Smith anticipates the claimed invention because it "discloses a cooking device with a conveyor formed of wire mesh, which is inherently metallic, and hence thermally conductive. The conveyor is itself necessarily heated by convection, and the food items too are thus heated." *Id.*

To anticipate a claimed invention, a prior art reference must describe each and every element as set forth in the claim. M.P.E.P. § 2131. Smith does not teach the step of conveying the product items through the chamber on a *plurality* of thermally conductive elements as claimed in the present invention. By contrast, the wire mesh conveyor that the Examiner points out is a single continuous belt. See Smith at figure 1. Thus, Smith cannot anticipate the present invention as a matter of law. Accordingly, Applicants request that this ground of rejection be withdrawn.

VI. Conclusion

In view of the foregoing amendment and remarks, Applicants respectfully request the reconsideration and timely allowance of the pending claims.

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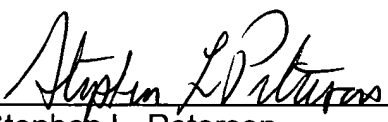
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Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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